

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1320
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Short Title: Utilities' Regulatory Fees.-2

(Public)

Sponsors:

Referred to:

June 23, 1989

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH REGULATORY FEES FOR PUBLIC UTILITIES TO
DEFRAY THE COST TO THE UTILITIES COMMISSION AND THE PUBLIC
STAFF OF REGULATING PUBLIC UTILITIES IN THE INTEREST OF THE
PUBLIC.

The General Assembly of North Carolina enacts:

Section 1. Article 14 of Chapter 62 of the General Statutes is amended by
adding a new section to read:

"§ 62-302. Regulatory fee.

(a) Fee Imposed. It is the policy of the State of North Carolina to provide fair
regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The
cost of regulating public utilities is a burden incident to the privilege of operating as a
public utility. Therefore, for the purpose of defraying the cost of regulating public
utilities, every public utility subject to the jurisdiction of the Commission shall pay a
quarterly regulatory fee, in addition to all other fees and taxes, as provided in this
section. The fees collected shall be used only to pay the expenses of the Commission
and the Public Staff in regulating public utilities in the interest of the public.

(b) Rate.

(1) For the 1989-90 fiscal year, the regulatory fee shall be the greater of (i)
twelve hundredths percent (0.12%) of each public utility's North
Carolina jurisdictional revenues for each quarter or (ii) six dollars and
twenty-five cents (\$6.25) each quarter.

1 (2) For fiscal years beginning on or after July 1, 1990, the regulatory fee
2 shall be the greater of (i) a percentage rate, established by the General
3 Assembly, of each public utility's North Carolina jurisdictional
4 revenues for each quarter or (ii) six dollars and twenty-five cents
5 (\$6.25) each quarter.

6 When the Commission prepares its budget request for the
7 upcoming fiscal year, the Commission shall propose a percentage rate
8 of the regulatory fee. That proposed rate shall be included in the
9 budget message the Governor submits to the General Assembly
10 pursuant to G.S. 143-11. The General Assembly shall set the
11 percentage rate of the regulatory fee in the Current Operations
12 Appropriations Act.

13 The percentage rate may not exceed the amount necessary to
14 generate funds sufficient to defray the estimated cost of the operations
15 of the Commission and the Public Staff for the upcoming fiscal year,
16 including a reasonable margin for a reserve fund. The amount of the
17 reserve may not exceed the estimated cost of operating the
18 Commission and the Public Staff for the upcoming fiscal year. In
19 calculating the amount of the reserve, the General Assembly shall
20 consider all relevant factors that may affect the cost of operating the
21 Commission or the Public Staff or a possible unanticipated increase or
22 decrease in North Carolina jurisdictional revenues.

23 (3) If the Commission, the Public Staff, or both experience a revenue
24 shortfall, the Commission shall implement a temporary regulatory fee
25 surcharge to avert the deficiency that would otherwise occur. In no
26 event may the total percentage rate of the regulatory fee plus any
27 surcharge established by the Commission exceed twenty-five
28 hundredths percent (0.25%).

29 (4) As used in this section, the term 'North Carolina jurisdictional
30 revenues' means all revenues derived or realized from intrastate tariffs,
31 rates, and charges approved or allowed by the Commission or
32 collected pursuant to Commission order or rule, but not including tap-
33 on fees or any other form of contributions in aid of construction.

34 (c) When Due. The regulatory fee imposed under this section is due and payable
35 to the Commission on or before the 15th day of the second month following the end of
36 each quarter. Every public utility subject to the regulatory fee shall, on or before the
37 date the fee is due for each quarter, prepare and render a report on a form prescribed by
38 the Commission. The report shall state the public utility's total North Carolina
39 jurisdictional revenues for the preceding quarter and shall be accompanied by any
40 supporting documentation that the Commission may by rule require. Receipts shall be
41 reported on an accrual basis.

42 If a public utility's report for the first quarter of any fiscal year shows that
43 application of the percentage rate would yield a quarterly fee of twenty-five dollars
44 (\$25.00) or less, the public utility shall pay an estimated fee for the entire fiscal year in

1 the amount of twenty-five dollars (\$25.00). If, after payment of the estimated fee, the
2 public utility's subsequent returns show that application of the percentage rate would
3 yield quarterly fees that total more than twenty-five dollars (\$25.00) for the entire fiscal
4 year, the public utility shall pay the cumulative amount of the fee resulting from
5 application of the percentage rate, to the extent it exceeds the amount of fees, other than
6 any surcharge, previously paid.

7 (d) Use of Proceeds. A special fund in the office of State Treasurer, the Utilities
8 Commission and Public Staff Fund, is created. The fees collected pursuant to this
9 section and all other funds received by the Commission or the Public Staff shall be
10 deposited in the Utilities Commission and Public Staff Fund. The Fund shall be placed
11 in an interest bearing account and any interest or other income derived from the Fund
12 shall be credited to the Fund. Monies in the Fund shall only be spent pursuant to
13 appropriation by the General Assembly.

14 The Utilities Commission and Public Staff Fund shall be subject to the provisions of
15 the Executive Budget Act except that no unexpended surplus of the Fund shall revert to
16 the General Fund. All funds credited to the Utilities Commission and Public Staff Fund
17 shall be used only to pay the expenses of the Commission and the Public Staff in
18 regulating public utilities in the interest of the public as provided by this Chapter."

19 Sec. 2. G.S. 62-301 is repealed.

20 Sec. 3. This act does not affect the rights or liabilities of the State, a public
21 utility, or another person arising under a statute repealed by this act before its repeal;
22 nor does it affect the right to any refund or credit of a fee that would otherwise have
23 been available under the repealed statute before its repeal.

24 Sec. 4. Nothing herein contained shall be construed to obligate the General
25 Assembly to appropriate funds to implement the provisions of this act.

26 Sec. 5. This act shall become effective July 1, 1989, shall apply to public
27 utility North Carolina jurisdictional revenues earned on or after that date, and shall
28 expire June 30, 1993.